

S E C R E T SECTION 01 OF 02 ABU DHABI 000176

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CRUSSEL
COMMERCE FOR DOC/BIS MOBRIEN
DHS FOR IMMIGRATION AND CUSTOMS ENFORCEMENT
NSC FOR DHOOKS

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SUBJECT: TEXTBOOK CASE: DUBAI CUSTOMS; RE-DELIVERY AND
DUAL-USE ISSUES

Classified By: Ambassador Michele J. Sison for reasons 1.5 b and d.

¶1. (SBU) Summary. On January 17, Dubai Customs allowed Iranian vessel M/V Iran Baluchestan, suspected of transporting dual-use items, to leave Port Rashid for Iran. Despite requests from the Embassy and Consulate, Dubai did not authorize the inspection of the container, claiming that it had no legal authority for doing so. Dubai's refusal to inspect this container is an example of the challenges we face as we prepare to launch the Counterproliferation Task Force (CTF) with the UAEG. The USG should use points from this case at the February 11 CTF meeting as a way to advance our nonproliferation priorities with the UAEG. End summary.

¶2. (S) On January 16, DHS/ICE attach received information from DHS Headquarters indicating that a container onboard Iranian-flagged vessel M/V Iran Baluchestan contained aluminum sheeting that had potential dual use in nuclear and missile programs. The information stated that the vessel would be docking in Dubai on January 17, in transit to Iran. The ship is owned by the Islamic Republic of Iran Shipping Lines. The aluminum sheeting is of U.S. origin, but there is no information about the U.S company involved. According to information developed by the ICE Attach, the suspect container was loaded in Port Klang, Malaysia on December 19, 2005, and the manifest indicated the container was empty. After stopping in Singapore on Jan 5 and Karachi on Jan 13, the Iran Baluchestan arrived at Port Rashid in Dubai at 0845 am Jan 17.

¶3. (S/NF) ICE Attach contacted Dubai Customs and Dubai's State Security Organization (SSO) to secure permission to have the container inspected. SIMO Chief in Dubai also contacted SSO to reiterate the importance of the request. Neither Dubai Customs nor SSO would allow the search, claiming that since the container was in transit and not bound for the UAE, there were no grounds under UAE or international law to allow the search. ICE attach pointed out that since the container was in UAE territory, international law would allow a search for contraband. Furthermore, he noted that the UAE Counter Terror Law of 2004 (Law #1/2004) obligated the UAE to conduct the search. Article 14 of the law states, "Whoever manufactures, prepares, furnishes, imports, obtains, possesses, or gets non-traditional weapons or parts used in their manufacturing, preparing, furnishing or carrying, or attempts to carry them through mail, any public or private means of transport or any other means intending to be used committing of any terrorist acts provided in this law, shall be punished with life or provisional imprisonment." Ahmed Butti, Director General of Dubai Customs told ICE Attach that allowing searches like the one being proposed would be, "bad for business." (Note: While he did not state this explicitly, it is likely that Butti and other UAE officials do not view materials bound for the Iranian Government as meeting the definition of "parts to be used in the committing of terrorist acts." End note.)

¶4. (SBU) Later on January 17, at the request of ICE attach, Consul General reached Chairman of Dubai Ports, Customs, and Free Zones, Sultan Bin Sulayem (SBS), who was in Kuwait for the funeral of the late Emir, and requested his intervention. After consulting with Dubai Ruler, Sheikh Mohammed bin Rashed and Dubai SSO Chief Mohammed Al-Qamzi, SBS called back to say that because the container in question was on board a ship that had only stopped to load additional cargo, Dubai Customs had no legal grounds for unloading the ship in search of the offending container. "The minute a container touches to dock, it is ours," Sultan claimed, "but not before that." CG reiterated the importance to U.S. and UAE security of not allowing the materials to reach the Iranians, but SBS held firm, saying "If it is important material you can use your ships in the Gulf to intercept it -- we will work closely with you to ensure that you have the information you need for the intercept." In the long term, he suggested, the U.S. should "work with the UN to get a Security Council resolution banning all such materials bound for Iran's programs. That would give us, and every other port in the world, the

justification we need for pulling containers off of Iranian ships in our ports." After five hours at Port Rashid, the Iran Baluchestan departed for Bandar Abbas.

15. (C) Comment: In the past Dubai Customs has been willing to work with us to stop shipments of internationally banned components bound for Iran, even when doing so has required extra-judicial measures. The sticking point in this case appeared to be the "potential dual use" nature of the U.S.-produced aluminum. Since the container was listed on the manifest as "empty" there was nothing that the U.S. could request be returned to the United States. Although Embassy believes the UAE would have been clearly within its legal right to inspect the container, if the UAE were a party to the Proliferation Security Initiative, the UAE would have been obligated to allow the inspection. Despite USG-provided training on what constitutes dual-use technology, Dubai Customs, SSO -- and even Dubai's senior leaders -- were unwilling to allow the container to be inspected. (Note: Although this case did not have a positive outcome, there have been other instances where Dubai Customs was more cooperative. In two cases, where the vessel came from the U.S. directly to the UAE, Dubai Customs redelivered the suspect cargo to U.S. custody.)

16. (C) Comment continued: This case is an example of the challenges we have faced with the UAEG in trying to tighten its export control efforts, and it is illustrative of the type of case we should work to address during the upcoming Counterproliferation Task Force (CTF) meeting. Embassy notes that both SSO and Dubai Customs will participate in the upcoming February 11 inaugural meeting of the CTF. Embassy recommends drawing from the following points at the CTF:

-- It was disappointing that Dubai allowed the Iran Baluchestan to depart Port Rashid without an inspection of the suspect cargo container;

-- We had hoped that Dubai authorities would use this case to take the opportunity to demonstrate their resolve in preventing potential dual-use items from reaching Iran;

-- What can we do to ensure a positive outcome next time?
SISON